

REMARKS

Claims 1-26 are pending in this application. Claims 1-9 have been withdrawn from consideration. Claims 10-26 are currently under examination. No new matter has been introduced by this submission.

The Examiner has maintained the rejection of claims 10-26 under 35 U.S.C. § 103(a) as allegedly being obvious over the combined teachings of WO 93/00882 (hereinafter '882) in view of US 6,231,844 (hereinafter '844) and US 4,871,530 (hereinafter '530). Applicants respectfully traverse the merits of these rejections as set forth below.

Applicants' claims are directed generally to a method for neutralizing relaxed hair. The method comprises, in part, providing hair that has been treated with a relaxing agent and subsequently contacting the relaxed hair with one or more applications of a neutralizer mousse composition. In rejecting these claims, the Examiner first relies upon the '882 reference for its general teaching of applying a hair relaxer to hair followed by an application of a neutralizer rinse to the relaxed hair. Significantly, the Examiner acknowledges that the '882 reference differs from the claimed invention at least because it fails to teach a neutralizing composition that is applied to relaxed hair in the form of a mousse composition. In view of this deficiency, the Examiner relies upon the secondary teachings of the '844 and '530 references to support the assertion that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the neutralizing step of the '882 reference by substituting the neutralizer rinse with a neutralizing mousse composition as claimed. Applicants again respectfully submit that the proposed combination of references is nothing more than hindsight reasoning and cannot form the basis of a proper obviousness rejection.

The '844 reference does not pertain to methods for neutralizing relaxed hair. As such, the '844 reference does not teach or suggest compositions that can be used as neutralizers for applying to relaxed hair and fails to teach or suggest that a mousse composition could be formulated and applied as a neutralizer to relaxed hair. In support of the proposed modification to the neutralizing step of the '882 reference, the Examiner identifies an excerpt from the '844 reference which states that hair mousses are formulated for the purpose of styling, setting, and arranging, or for other purposes such as shampooing, conditioning, treating, dyeing, and

combinations thereof. Presumably in an effort to broaden the scope of the '844 reference's disclosure, the Examiner concludes on page 5 of the Office Action that hair styling is the same as straightening or relaxing hair and therefore the '844 reference clearly teaches that mousse can be used for relaxing hair. It is well established that the scope of a reference's disclosure must be taken on its face and, to that end, nowhere does the '844 reference state that styling as referred to in the reference is the same as straightening or relaxing hair or that mousse can be used for relaxing hair. The Examiner's attempt to broaden the scope of the '844 reference is tantamount to an impermissible hindsight reconstruction of the art and, once again, relies upon the Applicant's own disclosure as a blueprint for piecing together prior art in an effort to defeat patentability. Moreover, as further indicated on page 5 of the Office Action, the Examiner's conclusion regarding the scope of the '844 reference's teachings is provided as support for a finding that the mousse of the '844 reference can be used for relaxing hair, whereas the method of Applicants' claims utilize mousse as neutralizer to be applied to hair that has already been treated with a relaxing agent. Thus, the Examiner's stated reliance on the '844 reference still fails to provide the requisite motivation for one of ordinary skill in the art to utilize a mousse as a neutralizer.

Similarly, the Examiner's reliance on the '530 reference also fails to provide the requisite motivation for one of ordinary skill in the art to utilize a mousse as a neutralizer. The '530 reference discloses that a delayed-foaming aqueous gel can be applied before or after waving or hair straightening. To that end, on page 3 of the Office Action, the Examiner concludes that waving of hair is the same as relaxing hair and thus the '530 reference teaches that a mousse composition can be applied to relaxed hair. However, as noted above, the scope of a reference's disclosure must be taken on its face and, to that end, nowhere does the '530 reference indicate that waved hair is relaxed hair. Moreover, there is no teaching or suggestion that such delayed-foaming aqueous gel compositions are applied to hair as a neutralizer.

Furthermore, the Office Action fails to address the merits of Applicants' prior arguments noting the unexpected results obtained by the method of claims 10-26. As noted on pages thirteen (13) and fourteen (14) of Applicants' own specification, one of ordinary skill in the art at the time of the invention would not have expected a neutralizer mousse composition to provide

effective neutralization when applied to relaxed hair. In particular, it was thought that the formation of bubbles or lather within a mousse composition would tie up thin layers of the liquid neutralizing composition in the walls of the bubbles themselves. Because the acidic neutralizing compound or compounds would be solubilized in the same liquid tied up in the wall of each bubble, it was believed the formation of bubbles or lather would have the effect of preventing the neutralizing compound from contacting the hair in all but the smallest of surface areas.

Accordingly, the neutralizing agent would not have penetrated into the hair fiber to complete the task of neutralizing excess alkalinity until the bubbles had begun to burst and the liquid was freed to diffuse into the fiber. In view of these expected difficulties, one of ordinary skill in the art would not have been motivated to modify the neutralizing rinse of the '882 reference to be a mousse composition. However, despite the characteristic bubbles or lather of a mousse composition, it was unexpectedly observed by the experimental data reported in the instant specification that the claimed neutralizing mousse compositions work as effectively and, in some instances, better than the conventional non-mousse neutralizer compositions reported in Example 4 on pages 22-23 of the instant specification..

For at least these reasons, Applicants respectfully assert that Claims 10-26 are not obvious over the combined teachings of WO 93/00882 in view of US 6,231,844 and US 4,871,530 and the instant rejections should be withdrawn.

CONCLUSION

In view of the foregoing Remarks, it is respectfully asserted that the rejections set forth in the Office Action of April 16, 2008 have been overcome and that the application is in condition for allowance. Therefore, Applicants respectfully seek notification of same.

Should the Examiner have any questions regarding this Reply, or which may advance the efficient prosecution of the application, the Examiner is courteously invited to contact the undersigned at the telephone number and address listed below.

Respectfully submitted,

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/Brian C. Meadows/ Date May 18, 2009
Brian C. Meadows